IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 28TH MARCH 2007 / 7TH CHAITHRA 1929

Crl.Rev.Pet.No. 3515 of 2006(D)

MC.10/2002 of JUDICIAL FIRST CLASS MAGISTRATE COURT, KOTHAMANAGALAM

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REVISION PETITIONER/COUNTER PETITIONER:

M.A. BASHEER, AGED 45 YEARS,
S/O. MUKKANNIYIL ABDUL RAHIMAN,MUKKANIYIL HOUSE,
KALAMPOOR KARA, ENANALLOOR VILLAGE.

BY ADV. SRI.K.S.SAJEEV KUMAR

RESPONDENTS/ PETITIONER:

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1. SARA, AGED 36 YEARS,
D/O. MOHAMMED, MANAKKAD HOUSE, KARUKADAM KARAYIL,
KOTHAMANGALAM VILLAGE.

2. THE STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI AMJAD ALI
ADV. SRI.M.M.SAIDU MUHAMMED
SRI.USHA RANI T.K.

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 28/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R.UDAYABHANU,J

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C.R.R.P.No.3515 OF 2006

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Dated this the 28th day of March, 2007

ORDER

The revision petitioner/counter petitioner in M.C.No.10/2002 in the complaint filed under Section 3(2) of the Muslim Women (Protection of Rights on Divorce) Act, 1986, disputes the finding of the court below allowing Rs.2,000/- as maintenance towards the Iddat period, return of 22.5 sovereigns of gold or its price ie, Rs.90,000/- and Rs.1,00,000/- as fair provision and Rs.3,000/- towards price of clothes.

I find that the evidence adduced in the matter consisted of the testimony of PW1 the petitioner, PW2 the father and Ext.P1 to P4(b). The counter petitioner was examined as DW1 and DW2 is the secretary of the Mosque and DW3 is the Panchayat Member and DW4 is a Doctor. Ext.D1 is the Kerala Gazette pages 34 and 35. I find that the findings with respect to the amount etc. to be paid are based on the oral evidence adduced as well as on the basis of Ext.P3 partition deed as per which properties have been allotted to the counter petitioner. It is the evidence of PW1 the petitioner and PW2 her father that 25 sovereigns of gold ornaments were given at the time of marriage to the petitioner and when she was sent back except 2.5

sovereign of gold ornaments the rest was kept in the house of the counter petitioner. The court below has considered the evidence in detail. I find that during cross examination of PW1, she has mentioned the type of ornaments that was given to her at the time of marriage and the weight of each. The amount was calculated at the rate of Rs.4,000/- per sovereign. PW2 has also testified with respect to the purchase of ornaments. On the other hand, the testimony of PW1 was found to be not sufficiently convincing as in the cross examination he has pleaded ignorance to the suggestion that except 2.5 sovereigns of gold ornaments, the rest was kept by him when she was taken to her parental house. The stress in the evidence of DW1 is on the allegation that the petitioner was insane at the time of marriage. No convincing evidence in this regard has been adduced. In the circumstances, I find no reason to interfere in the findings of the court below in exercise of the revisional jurisdiction of this court. The revision petition is dismissed accordingly.

K.R.UDAYABHANU,JUDGE

dvs